



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	M	ATTY NO. 1005
--------------------	-------------	-----------------------	---	---------------

08/393,738 02/24/95 MAJEED

AZPURU, C

15M1/0927

NIKAIDO MARMELESTEIN MURRAY & ORAM  
METROPOLITAN SQUARE  
655 FIFTEENTH STREET NW  
SUITE 330 G STREET LOBBY  
WASHINGTON DC 20005-5701

1502

DATE MAILED: 09/27/95

**NOTICE OF INFORMAL APPLICATION**

(Attachment to Office Action)

This application does not conform with the rules governing applications for the reason(s) checked below. The period within which to correct these requirements and avoid abandonment is set in the accompanying Office action.

A. A new oath or declaration, identifying this application by the application number and filing date is required. The oath or declaration does not comply with 37 CFR 1.63 in that it:

1. ☐ does not identify the city and state or foreign country of residence of each inventor.
2. ☐ does not identify the citizenship of each inventor.
3. ☐ does not state whether the inventor is a sole or joint inventor.
4. ☐ does not state that the person making the oath or declaration:
  - a. ☐ has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.
  - b. ☐ believes the named inventor or inventors to be the original and the first inventor or inventors of the subject matter which is claimed and for which a patent is sought.
  - c. ☐ acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
5. ☐ does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application serial number, country, day, month, and year of its filing.
6. ☐ does not state that the person making the oath or declaration acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and filing date of the continuation-in-part application which discloses and claims subject matter in addition to that disclosed in the prior application (37 CFR 1.63(d)).
7. ☐ does not include the date of execution.
8. ☐ does not use permanent ink, or its equivalent in quality, as required under 37 CFR 1.52(a).
9. ☐ contains non-initialed alterations (See 37 CFR 1.52(c)).
10. ☐ Other:

B. Applicant is required to provide:

1. ☐ A statement signed by applicant giving his or her complete name. A full name must include at least one given name without abbreviation as required by (37 CFR 1.41(a)).
2. ☐ Proof of authority of the legal representative under 37 CFR 1.44.
3. ☐ An abstract in compliance with 37 CFR 1.72(b).
4. ☐ A statement signed by applicant giving his or her complete post office address (37 CFR 1.33(a)).
5. ☐ A copy of the specification written, typed, or printed in permanent ink, or its equivalent in quality as required by 37 CFR 1.52(a).

6. ☒ Other: Typo error FIG. 4 should be FIG. 1



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
---------------	-------------	----------------------	---------------------

08/393,738 02/24/95 MAJEED

M P8064-4005

EXAMINER  
AZPURU, C

ART UNIT PAPER NUMBER

1502

DATE MAILED:

09/27/95

15M1/0927  
NIKAIDO MARMELESTEIN MURRAY & ORAM  
METROPOLITAN SQUARE  
655 FIFTEENTH STREET NW  
SUITE 330 G STREET LOBBY  
WASHINGTON DC 20005-5701

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948.      |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input checked="" type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____  |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-31 are pending in the application.  
Of the above, claims 29-31 are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-28 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

**EXAMINER'S ACTION**

Serial Number: 08/393,738  
Art Unit: 1502

-2-

### **Part III DETAILED ACTION**

Receipt is acknowledged of the prior art statement filed 06/12/95.

Although applicant has called concerning a restriction requirement having 3 groups, Groups I and II of that restriction requirement have been combined to form Group I as set out herein.

#### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-28, drawn to a piperine composition and method of increasing utilization through use of piperine, classified in Class 424, subclass 195.1.

Group II. Claims 29-31, drawn to a method of purifying piperine, classified in Class 210, subclass 95+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as that of Stanton.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Sharon Nolan Klesner on September 22, 1995 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-28. Affirmation of this election must be made by applicant in responding to this Office action. Claims 29-31 withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

5. Claims 1-28 are rejected under 35 U.S.C. § 112, first paragraph, as the disclosure is enabling only for claims limited to the composition as claimed containing **a therapeutically effective amount of** piperine extract such that a daily dose consists of 0.004-0.008 mg/kg of body weight piperine, or alternatively, a ratio of 0.4 mg of piperine per 500 mg of nutrient, biological compound, or nutritional supplement. Nutritional materials should also be set out in **nutritionally effective amounts**. Method claims should also contain a statement referring to the function of the therapeutically effective amount such as "for those in need of thereof", or "for those in need of

Serial Number: 08/393,738  
Art Unit: 1502

-4-

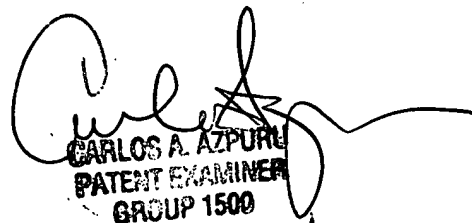
improving gastrointestinal absorption".. See M.P.E.P.  
§§ 706.03(n) and 706.03(z).

Page 9, lines 1-11, sets out the broadest range of the  
therapeutic amount of piperine used in this composition.

Wood et al. is cited as a patent of interest in its  
disclosure of purification of piperine between 75.8% and 90.9%.  
Any inquiry concerning this communication or earlier  
communications from the examiner should be directed to Carlos  
Azpuru whose telephone number is (703) 308-0237. The examiner  
can normally be reached on Monday-Friday from 6:30 am to 3:00 pm,  
EST.

If attempts to reach the examiner by telephone are  
unsuccessful, the examiner's supervisor, Thurman K. Page, can be  
reached on (703) 308-2927. The fax phone number for this Group  
is (703) 305-5408.

Any inquiry of a general nature or relating to the status of  
this application or proceeding should be directed to the Group  
receptionist whose telephone number is (703) 308-2351.

  
CARLOS A. AZPURU  
PATENT EXAMINER  
GROUP 1500